



# MEMORANDUM

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DATE: August 16, 2017  
For August 31, 2017 Hearing

TO: Steve Shell  
Zoning Examiner

FROM: Scott Clark   
Planning & Development Services  
Interim Director

SUBJECT: REZONING  
PLANNING & DEVELOPMENT SERVICES REPORT  
C9-17-09 El Rio Health Center – 22<sup>nd</sup> Street  
R-2, C-3 & I-1 to C-2 (Ward 5)

**Issue** – This is a request by Matt Stuart of Cypress Civil Development, on behalf of the property owner, El Rio Neighborhood Health Center, Inc., to rezone approximately 7.58 acres from R-2, C-3 and I-1 to C-2 zoning to accommodate the relocation of a medical outpatient facility and a residential care facility. The existing El Rio Health Center, located a little over a mile north of the rezoning site on Broadway Boulevard, is slated for demolition as part of the City of Tucson and Regional Transportation Authority (RTA) Broadway widening project.

The rezoning site is located at the southwest corner of 22<sup>nd</sup> Street and Cherrybell Stravenue Avenue, just east of the Kino Parkway overpass (see Case Location Map). The preliminary development plan (PDP) proposes two buildings, with Phase 1 consisting of a two-story building with 50,421 square feet of floor area for medical outpatient use, located in the northern portion of the rezoning site. A future Phase 2 proposes residential care service use with physical and behavioral health service in a two-story building with approximately 15,000 square feet of floor area in the middle portion of the site. A future Phase 3 proposes another approximately 15,000 square foot building in the southern portion of the site to be used for either medical outpatient or residential care depending on the future needs of the community. Each of the buildings has a proposed height of 40 feet.

**Planning & Development Services Recommendation** – The Planning & Development Services Department recommends approval of C-2 zoning, subject to the attached preliminary conditions.

## **Background Information**

Existing Land Use: vacant

Zoning Descriptions:

Existing: R-2 – This zone provides for medium density, single-family and multifamily, residential development, together with schools, parks, and other public services necessary for an urban residential environment.

Existing: C-3 – This zone provides for mid-rise development of general commercial uses that serve the community and region, located downtown or in other major activity center areas. Residential and other related uses are also permitted.

Existing: I-1 – This zone provides for industrial uses that do not have offensive characteristics in addition to land uses permitted in more restrictive nonresidential zones. Select other agriculture, civic, commercial, industrial, retail, storage, utility, and wholesaling uses may also be permitted.

Proposed: C-2 – This zone provides for general commercial uses that serve the community and region. Residential and select other agriculture, civic, recreational, and utility uses may also be permitted that provide reasonable compatibility with adjoining residential uses.

Surrounding Zones and Land Uses:

North: Zoned I-1; R-2, C-3, and I-1; various commercial and industrial uses

South: Zoned R-2; Residential single-family homes and duplexes

East: Zoned C-1 and I-1; various commercial and industrial uses, United States Post Office

West: Zoned R-2; Kino Parkway, vacant land

Previous Cases on the Property: None

Related Cases:

C9-14-05 Mar – Kino Parkway, R-2 to I-1 A rezoning request for approximately 0.88 acres located at the southeast corner of Kino Parkway and 14<sup>th</sup> Street to allow an 8,533 square foot, 24 foot tall building for the manufacturing of electronic components. On October 21, 2014, Mayor and Council voted to authorize the rezoning.

C9-08-11 RARIC Partnership – 20<sup>th</sup> Street, R-2 to I-1 A rezoning request for 1.12 acres located at the northwest corner of 20<sup>th</sup> Street and Fremont Avenue for the purpose of constructing a 19,831 square-foot building to be used as a metal fabrication facility. On October 19, 2010, Mayor and Council adopted Ordinance No. 10845. Time for compliance with conditions of rezoning expired on October 19, 2015. The existing R-2 zoning remains in effect.

C9-04-20 Oasis Bottled Water – 22<sup>nd</sup> Street, R-2 to I-1 A rezoning request for approximately 0.96 acres located at the southeast corner of 22<sup>nd</sup> and Neff Streets to allow the development of a 13,000 square-foot bottling plant. On February 7, 2006, Mayor and Council adopted Ordinance No. 10247.

**Applicant's Request** – The applicant requests to rezone 7.58 acres to C-2 zoning for the purpose of constructing a two-story building with a height of 40 feet and 50,421 square feet of floor area for a medical outpatient use in Phase 1, in the northern portion of the rezoning site. In Phase 2 a future residential care service use with physical and behavioral health service in a two-story building with approximately 15,000 square feet of floor area, is proposed near the middle of the site. Future Phase 3 proposes either medical outpatient or residential care service in a two-story 15,000 square foot building in the southern portion of the site.

**Planning Considerations** – Land use policy direction for this area is provided by the *Greater South Park Area Plan (GSPP)* and *Plan Tucson (PT)*. The rezoning site is located within a Mixed-Use Center as identified on the Future Growth Scenario Map of *Plan Tucson*. Mixed-Use Centers combine a variety of housing options, retail, services, office, and public gathering places, located close to each other, providing occupants of the center and residents and workers in the surrounding neighborhoods with local access to goods and services. Public transit, bicycling, and walking will get priority in these areas, although cars will still play an important role. In this context, the proposed and existing industrial uses accommodate employment and support the mix of uses envisioned for the general area by *PT* on the Future Growth Scenario Map. *PT* policies support environmentally sensitive design that protects the integrity of existing neighborhoods, complements adjacent land uses, and enhances the overall function and visual quality of the street, adjacent properties, and the community. *PT* guidelines support infill and redevelopment projects that reflect sensitivity to site and neighborhood conditions and adhere to the relevant site and architectural design guidelines. *PT* supports the retention and expansion of existing businesses and convenient public transit to serve employees.

The site is within Subarea 4 of the *Greater South Park Area Plan*. Subarea 4 contains a mixture of uses and zones and is located south of 22<sup>nd</sup> Street, east of Kino Boulevard alignment, north of Silverlake Road, and west of Campbell Avenue. Although the majority of land uses are commercial and industrial, there is also a small pocket of residential uses and zones in this subarea. Considering impacts of the Kino Boulevard alignment and previous rezoning approvals, this subarea appears to be transitioning to more commercial and industrial uses. The policy section of the *Greater South Park Area Plan*, Subarea 4 supports additional commercial and light industrial uses. Compatibility of industrial and commercial uses with existing uses, specifically residential uses, should be ensured by utilizing such elements as restricted hours of operation, screened or covered storage, noise buffers, and enhanced landscaping. The goal of the *GSPP* is to guide future development while protecting and improving existing neighborhoods. It calls for reducing the travel time and distance between home and work, reducing transportation costs and energy consumption. Commercial uses should be located in close proximity to major streets and transportation corridors, with adequate buffer areas to protect adjacent uses, prohibition of industrial traffic through residential areas, and access to existing or planned public transit routes. The *GSPP* promotes the availability of employment to people who are not able to expend the time or money necessary for a lengthy home-to-work trip. The proposed rezoning request to C-2 is supported by *PT* and *GSPP*.

The project site is comprised of two vacant parcels bounded by the northbound Kino Boulevard off-ramp to the west, 22<sup>nd</sup> Street to the north, and Cherrybell Stravenue to the east. Surrounding development consists of a mix of industrial, commercial and residential land uses. Nearly the entire site is zoned R-2, with a very small portion in the northeast corner near the intersection of 22<sup>nd</sup> Street and Cherrybell Avenue zoned C-3, and another very small portion near the intersection of Cherry Avenue and Cherrybell Avenue zoned I-1. The rezoning site is located at the southwest corner of 22<sup>nd</sup> Street and Cherrybell Stravenue and is bounded by the northbound Kino Parkway off ramp on the west, 22<sup>nd</sup> Street on the north, Cherrybell Stravenue on the east, and 25<sup>th</sup> Street on the south. On the *Major Streets and Routes Plan* map, Kino Parkway is identified as a Gateway arterial street with a 150-foot right-of-way, and 22<sup>nd</sup> Street is designated a major arterial street with a 120-foot cross section. Cherrybell Stravenue is classified as a collector street providing access to industrial and residential uses to the south, and 25<sup>th</sup> Street is a local street, which dead ends at Kino Parkway.

To the north across 22<sup>nd</sup> Street is a mix of industrial and warehousing uses, zoned I-1 and C-3. To the east is a mix of commercial and industrial uses, zoned C-1 and I-1, with a United States Postal facility across Cherrybell Stravenue, zoned I-1. To the south are single-family residences and duplexes, zoned R-2. The nearest residentially zoned and developed properties are immediately adjacent to the rezoning site along its southern boundary and fronting on 25<sup>th</sup> Street. To the west of the rezoning site across Kino Parkway is vacant land and residential uses, zoned R-2.

### **Design Considerations**

Land Use Compatibility – Because of high visibility of the site and the proposed 40-foot tall buildings from the elevated Kino Parkway overpass, and the designation of Kino Parkway as a Gateway Route, any rooftop mechanical equipment should be screened from view. Proposed viewshed drawings provided in the Design Compatibility Report show a variety of architectural features and materials, with rooflines that include a various angles, lines, and planes to provide visual interest. Any perimeter masonry screen walls should incorporate a design treatment with two or more materials like stucco, tile, brick, or similar material, in a visually interesting pattern.

Road Improvements/Vehicular Access/Circulation – The project will have direct vehicular access at two points from Cherrybell Stravenue along the east side of the rezoning site, with the access drives being approximately 100 feet and 500 feet south of 22<sup>nd</sup> Street. There is no direct access from 22<sup>nd</sup> Street or from the Kino Boulevard off ramp.

Tucson Department of Transportation (TDOT) states that a bus pullout has already been provided in front of the parcel on 22<sup>nd</sup> Street and that a new bus shelter will be provided by TDOT as the project nears completion. The PDP depicts a pedestrian sidewalk of between 6 and 10 feet in width extending from the right-of-way along 22<sup>nd</sup> Street near the bus pullout towards the buildings. Staff recommends that canopy trees be planted near the sidewalks and along their length as shown on the PDP to provide shade for pedestrians and reduce the heat island effect.

**Conclusion** – The proposed rezoning is consistent with, and supported by the *Greater South Park Area Plan* and *Plan Tucson*, which support commercial development at this location. Subject to compliance with the attached preliminary conditions, approval of the requested C-2 zoning is appropriate.

### PROCEDURAL

1. A development package in substantial compliance with the preliminary development plan dated July 10, 2017, and required reports, are to be submitted and approved in accordance with the *Administrative Manual*, Section 2-06.
2. The property owner shall execute a waiver of potential claims under A.R.S. Sec. 12-1134 for this zoning amendment as permitted by A.R.S. Sec. 12-1134 (I) in the form approved by the City Attorney and titled "Agreement to Waive Any Claims Against the City for Zoning Amendment". The fully executed Waiver must be received by the Planning & Development Services Department before the item is scheduled for Mayor and Council action.
3. Historic or prehistoric features or artifacts discovered during future ground disturbing activities should be reported to the City of Tucson Historic Preservation Officer. Pursuant to A.R.S. 41-865 the discovery of human remains and associated objects found on private lands in Arizona must be reported to the Director of Arizona State Museum.
4. Any relocation, modification, etc., of existing utilities and/or public improvements necessitated by the proposed development shall be at no expense to the public.
5. Five years are allowed from the date of initial authorization to implement and effectuate all Code requirements and conditions of rezoning.

### LAND USE COMPATIBILITY

6. All walls visible from a public right-of-way are to be graffiti-resistant and incorporate one (1) or more visually appealing design treatments, such as the use of two (2) or more decorative materials like stucco, tile, stone, or brick; a visually interesting design on the wall surface; varied wall alignments, (jog, curve, notch, setback, etc.); and/or trees and shrubs in voids created by the wall variations.
7. Six (6) inch wide masonry block or greater shall be used for perimeter walls.



AGREEMENT TO WAIVE ANY CLAIMS  
AGAINST THE CITY FOR ZONING AMENDMENT

This agreement ( "**Agreement**") is entered into between \_\_\_\_\_, as the owner of the property described herein ("**Owner**") and the City of Tucson ("**City**") to waive any and all claims for diminution of value that may be based upon action by the City in response to a request from the Owner. This Agreement is entered into in conformance with A.R.S. §12-1134(I).

The Owner is the holder of fee title to the property located at \_\_\_\_\_, Tucson, Arizona, (the "**Property**") which is more fully described in the Owner's application to the City in Case C9-17-09 and incorporated herein. The Owner, or the authorized agent of the Owner, has submitted an application to the City requesting that the City rezone the Property. The Owner has requested this action because the Owner has plans for the development of the Property that require the rezoning. The Owner believes that the rezoning of the Property will increase the value and development potential of the Property, and that this outweighs any rights or remedies that may be obtained under A.R.S. §12-1134 et. seq.

By signing this Agreement, the Owner waives any right or claim that may arise under A.R.S. §12-1134, including any claim for the reduction in the value of the Property, as a result of the enactment of the zoning amendment in Case C9-17-09.

The Owner understands that City staff may propose, the Zoning Examiner may recommend and the Mayor and Council may adopt conditions to the requested zoning that limit the potential development of the Property. The Owner acknowledges that the rezoning and conditions are a single, integrated legislative approval. The Owner agrees and consents to all conditions that may be imposed. The Owner retains the right to withdraw the rezoning application prior to a vote by the Mayor and Council or to decline to implement the necessary requirements to effectuate the zoning if the Owner disagrees with any conditions that are proposed or approved. If the Owner does not withdraw the application, the Owner shall be deemed to have accepted all adopted conditions to the requested zoning. If the Owner withdraws the application or does not effectuate the new zoning, this Agreement is null and void.

This Agreement is entered into in Arizona and will be construed and interpreted under the laws of the State of Arizona. The Owner has agreed to the form of this Agreement provided and approved by the City Attorney. The Owner has had the opportunity to consult with an attorney of the Owner's choice prior to entering this Agreement and enters it fully understanding that the Owner is waiving the rights and remedies as set forth herein.

Upon execution, this Agreement shall be recorded in the Office of the Pima County Recorder.

The Owner warrants and represents that the person or persons listed herein as the Owner is/are the owner in fee title of the Property. The Owner further agrees to indemnify and hold the City of Tucson, its officers, employees and agents harmless from any and all claims, causes of action, demands, losses, costs and expenses based upon an alleged reduction of value of the Property as a result of the City's action in Case C9-17-09.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Owner:

(Name of Individual, Corporation, Partnership, or LLC, as applicable)

Owner:

(Name of Individual, Corporation, Partnership, or LLC, as applicable)

By:

(Signature of Owner or Authorized Representative, if applicable)

By:

(Signature of Owner or Authorized Representative, if applicable)

Its:

(Title of Individual Signing in Representative Capacity)

Its:

(Title of Individual Signing in Representative Capacity)

State of Arizona )

County of \_\_\_\_\_ )

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me personally appeared \_\_\_\_\_ on the basis of satisfactory evidence to be the person who he or she claims to be, and acknowledged that he or she signed the above/attached document.

\_\_\_\_\_  
Notary Public

My Commission expires:

\_\_\_\_\_

City of Tucson, an Arizona municipal Corporation:

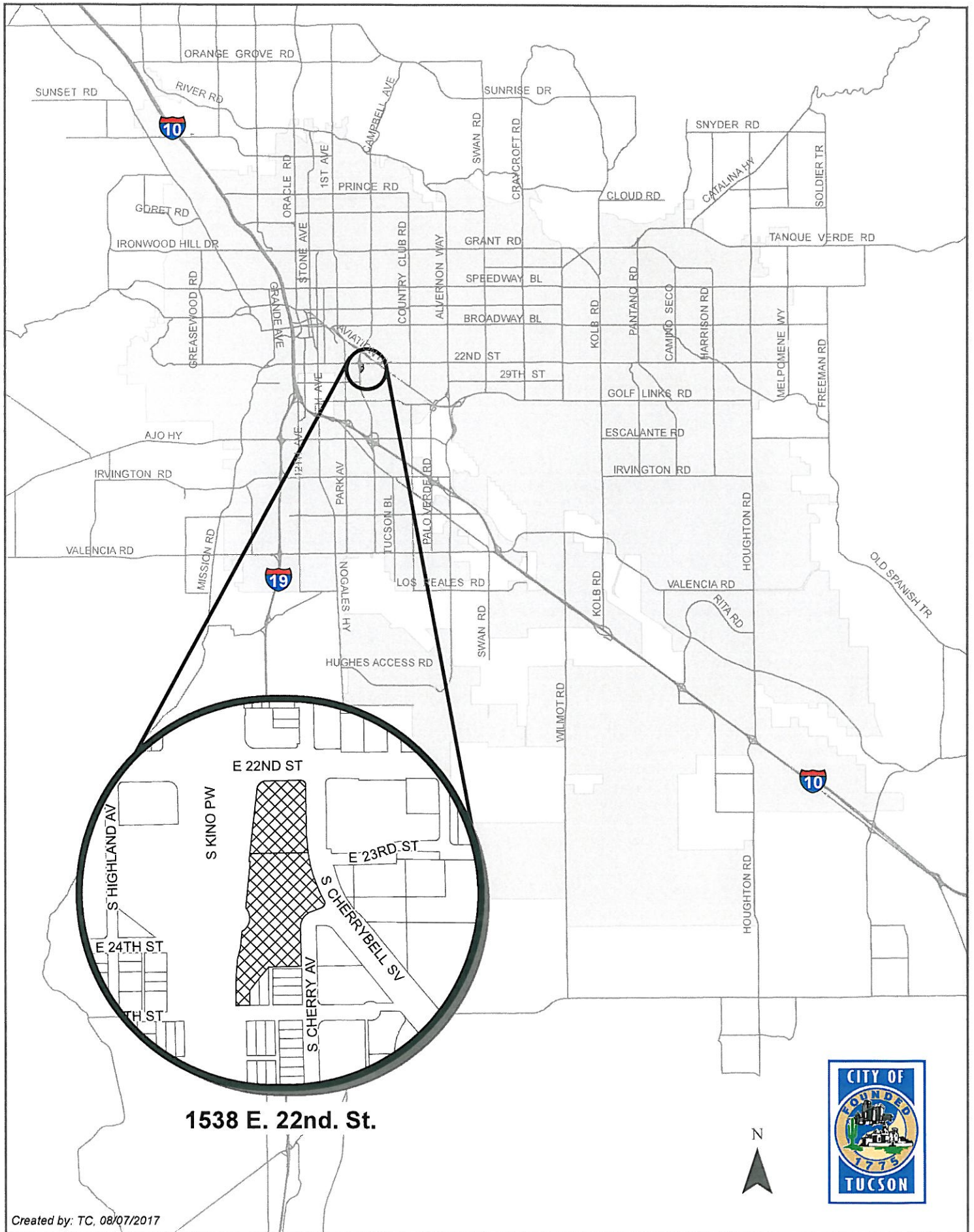
By:

\_\_\_\_\_  
Planning & Development Services Department

This form has been approved by the City Attorney.



# C9-17-09: El Rio Health Center - 22nd Street





**C9-17-09 El Rio Health Center - 22nd Street  
Rezoning Request: R-2, C-3, & I-1 to C-2**



 Subject Property



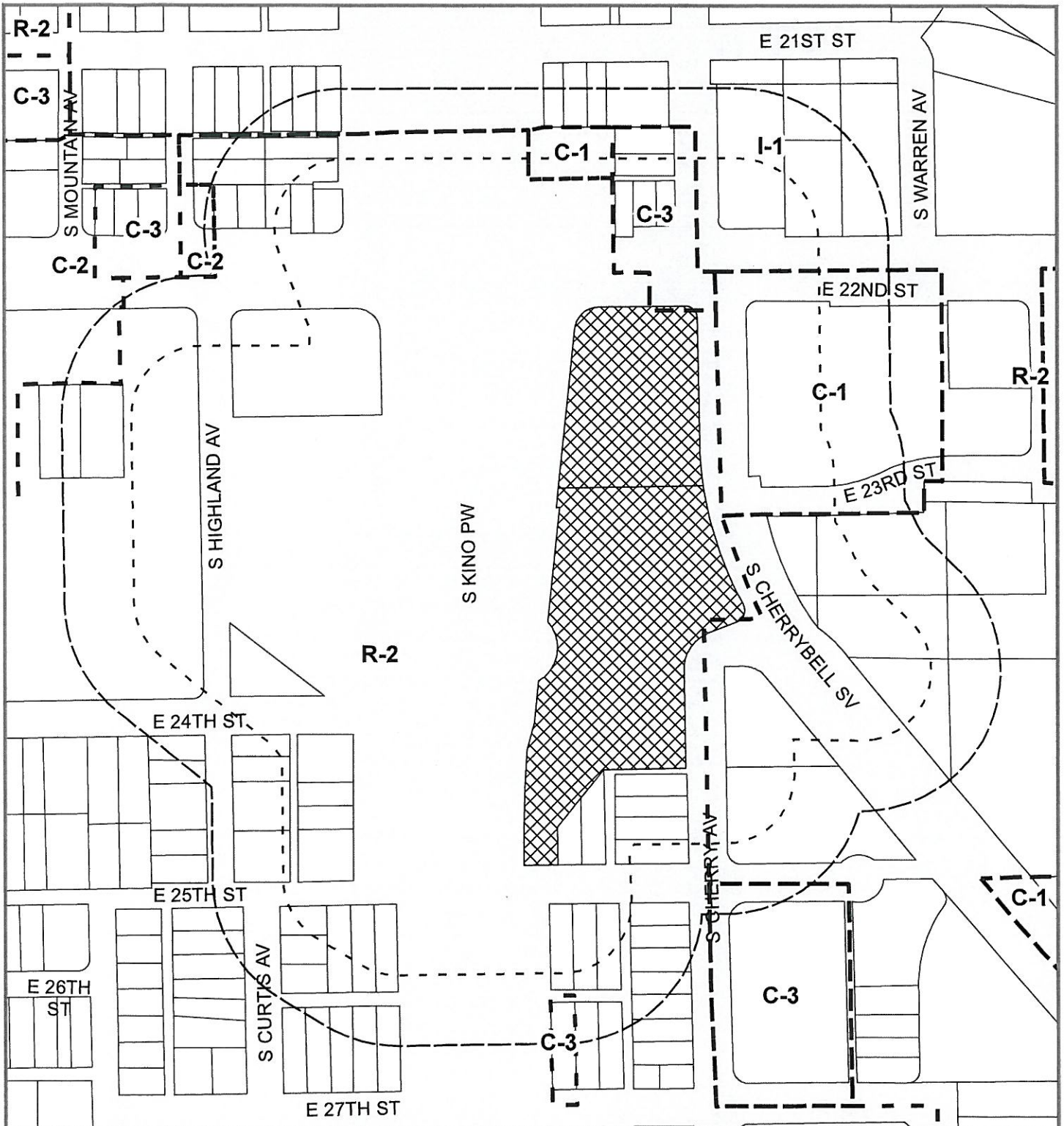
Address: 1538 E 22nd Street  
Base Maps: Twp.14S Range14E Sec. 19  
Ward: 5

0 150 300  
Feet  
1 inch = 300 feet

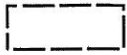




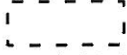
**C9-17-09 El Rio Health Center - 22nd Street  
Rezoning Request: R-2, C-3, & I-1 to C-2**



Subject Property



Notification Area (300-foot Radius)



Protest Area (150-foot Radius)



Zone Boundaries

Address: 1538 E 22nd Street  
Base Maps: Twp.14S Range14E Sec. 19  
Ward: 5

0 150 300 Feet







## Approval – Protest Form

If you wish to submit a written protest or approval, this form is provided for your convenience. Please print your comments below, sign your name, and mail to the Rezoning Section of the Planning and Development Services Department at the address on the reverse side (you will need to attach postage). The number of approvals and protests along with protest calculations will be reported at the Zoning Examiner's public hearing.

**Approvals and protests must have an owner's signature to be recorded.**

If protests are filed from property owners representing 20% or more by area in any quadrant of the area located within a 150 foot radius of the parcel(s) on which the rezoning is proposed, an affirmative vote of  $\frac{3}{4}$  of the Mayor and Council will be required to approve the rezoning ordinance.

**Case: C9-17-09 El Rio Health Center – 22<sup>nd</sup> Street, R-2, C-3, and I-1 to C-2 (Ward 5)**

\_\_\_\_\_  
I/We the undersigned property owners, wish to

☐ APPROVE the proposed rezoning.

☐ PROTEST the proposed rezoning.

**Reason:**

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PLEASE PRINT YOUR NAME	PLEASE PRINT MAILING ADDRESS	PLEASE PRINT LEGAL PROPERTY DESCRIPTION		
		Subdivision	Block	Lot

Owner's Signature: \_\_\_\_\_ Date \_\_\_\_\_

Place  
Stamp  
Here

City of Tucson  
**Planning and Development Services Department**  
Rezoning Section  
201 N. Stone  
P.O. Box 27210  
Tucson, Arizona 85726-7210

C9-17-09

Expose this flap - Affix stamp and return

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City of Tucson PMc  
Planning and Development Services  
Department -Rezoning Section  
201 N. Stone Avenue  
P.O. BOX 27210  
Tucson, Arizona 85726-7210

C9-17-09

IMPORTANT REZONING NOTICE ENCLOSED